

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
OFFICE OF PRODUCT & INDUSTRY STANDARDS**

PO Box 1163, Richmond, VA 23218
Phone: (804) 786-2476 Fax (804) 786-1571
www.vdacs.virginia.gov

Who needs a Cotton Handlers license?

Any person/facility acting in the following manner:

| | |
|------------------|--|
| Cotton gin | Any facility where cotton seed and cotton lint are produced from raw cotton |
| Cotton handler | Any person or facility doing business as a cotton gin, cotton merchant or cotton warehouse |
| Cotton merchant | Any person who buys cotton from a producer for the purpose of resale or acts as a broker or agent for a producer in arranging the sale of cotton. This does not include a person that buys cotton for his own use. |
| Cotton warehouse | Any enclosure in which producer-owned cotton is stored or held for longer than forty-eight hours. |

Bond Required

The application for a Cotton Handlers License shall be accompanied by a license fee of \$50, proof of insurance with a company licensed to do business in the Commonwealth in an amount equal to the fair market value of the maximum amount of cotton that can be stored in the warehouse, and a bond in the amount of \$500,000 in accordance with Section 3.1-722.35 Code of Virginia (1950) as amended.

If a company furnishes proof of a valid license issued pursuant to the United States Warehouse Act (USWA), the insurance and bond is not required under the Virginia Cotton Handlers Law. A cotton handler governed by this shall notify the Commissioner of the Virginia Department of Agriculture and Consumer Services of any change in the status of its USWA license within 24 hours after being notified by the United States Department of Agriculture.

**VIRGINIA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES
PO BOX 526
RICHMOND VA 23218-0526**

APPLICATION FOR COTTON HANDLERS LICENSE

Application is hereby made by the undersigned for a license to do business as a cotton handler as defined by Section 3.1-722.29-43 of the Code of Virginia (1950), as amended. There is herewith tendered in the sum of \$50.00, the license fee prescribed by law. Make check payable to the Treasurer of Virginia. **Code 888-02106**

Application is made for _____ **Cotton Marketing Cooperative**
(check all that apply) _____ **Cotton Gin**
_____ **Cotton Merchant**
_____ **Cotton Warehouse**

Address at which applicant will receive correspondence by first-class mail:

Company/Corporation/Person

PO Box/Street Address City State Zip

Every address at which the records of the cotton handler will be kept:

Street Address Building No. City, State, Zip

Street Address Building No. City, State, Zip

If applicant is a cotton gin, where will the cotton be ginned:

Street Address Building No. City, State, Zip

If applicant is a cotton warehouse, where will the cotton be warehoused:

Street Address Building No. City, State, Zip

The full name and first-class mailing address of a person who is authorized to receive service of process on behalf of the cotton handler:

Full Name of Person PO Box/Street Address City, State, Zip

Business Organization

INDIVIDUAL OR PARTNERSHIP

Firm or Trade Name

Address of Record Telephone Number

Physical Address of Business Telephone Number

Name and complete mailing address of partner(s) or individual

Name and complete mailing address of partner(s) or individual

Name and complete mailing address of partner(s) or individual

CORPORATION

Firm or Trade Name

Address of Record

Telephone Number

Physical Address of Business

Telephone Number

Domestic or Foreign Corporation _____

Officers Names and Addresses:

President

PO Box/Street Address

City

State

Zip

Vice President

PO Box/Street Address

City

State

Zip

Secretary/Treasurer

PO Box/Street Address

City

State

Zip

LIMITED LIABILITY or FOREIGN LIABILITY COMPANY

Name of Company and Name Doing Business As

Address of Record

Telephone Number

Physical Address of Business

Telephone Number

Full Name of Manager of Company:

If No Manager:

Full Names of Members of Company

Full Names of Members of Company

PROOF OF INSURANCE**Cotton Gin and/or Cotton Merchant:**

Proof of bond in the amount of \$_____ (\$50,000 required), issued contemporaneously with this application by an insurance company duly licensed to do business in the Commonwealth of Virginia.

ATTACH BOND TO THIS APPLICATION**Cotton Warehouse:**

Proof of insurance in the amount of \$_____ (Maximum amount of cotton that can be stored in the warehouse) and Bond in the amount of \$_____ (\$500,000 required), issued contemporaneously with this application by an insurance company duly licensed to do business in the Commonwealth of Virginia. **ATTACH PROOF OF INSURANCE AND BOND TO THIS APPLICATION.**

() Check here if claiming exemption as stated in Section 3.1-722.3 (E) Code of Virginia (1950) as amended
ATTACH PROOF OF VALID USWA LICENSE TO THIS APPLICATION

*****COTTON GINS TO PROVIDE ADDITIONAL INFORMATION*****

DO NOT FAIL TO GIVE THIS INFORMATION

Last Bale Tag Number used in previous year _____
First Bale Tag Number to be used in current year _____

IT IS HEREBY AGREED that all information herein stated will not be changed or varied during the term of said license, except by and through the written notification to the Commissioner of the Virginia Department of Agriculture and Consumer Services.

Given under _____ hand(s) and seal(s) this the _____ day of _____, 20____.

FIRM NAME

By _____
Title

By _____
Title

By _____
Title

COMMONWEALTH OF VIRGINIA

COUNTY OR CITY OF _____ **to-wit:**

This day, personally appeared before me in my county or city aforesaid, _____, _____ and _____ the duly authorized representatives or officers, of the person, firm or corporation of the above named applicant, and made oath in due form of law, that the matters and statements herein contained are true to the best of their knowledge and belief and that he or they are duly authorized to execute the foregoing instrument. Given under my hand this _____ day of _____, 20____.

My Commission expires _____

NOTARY PUBLIC

BOND
AS COTTON HANDLER IN VIRGINIA

STATE OF _____

BOND NO. _____

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS: That we _____
See instructions on back page

as Principal and _____,
Name of Surety Company

as Surety, are held and firmly bound unto the COMMISSIONER OF THE VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES of the COMMONWEALTH OF VIRGINIA and his successors in office, for the use and benefit of every person establishing legal rights hereunder, in the full and just sum of _____ Dollars, (\$ _____), to the payment of which well and truly to be made, we hereby bind ourselves, our heirs, administrators, executors, successors and assigns firmly by these presents.

WHEREAS by Sections 3.1-722.30 and 3.1-722.31, Code of Virginia (1950) as amended, Dealers in Cotton Handlers are required to obtain a license from the Commissioner of the Virginia Department of Agriculture and Consumer Services and to give bond in such form and amount as shall be approved by the Commissioner, conditioned upon a full compliance with the provisions of the said Code, as amended.

NOW, THEREFORE, the condition of this obligation is such that if the above named principal shall faithfully and truly account for and make payment to producers, their agents or representatives, for all cotton products ginned, warehoused, bought from or handled or sold for such producers, their agents or representatives, as required by Section 3.1-722.35, Code of Virginia (1950) as amended, then this obligation to be void, otherwise to remain in full force and effect.

The aggregate accumulated liability under this bond shall in no event exceed the penal sum named herein, for any and all claims which may accrue during the term hereof.

The inception of this Bond begins _____, 20____, and continues in effect through June 30, 20____. (Must run concurrently with Cotton Handlers License)

The Surety may withdraw from this bond by giving 30 days written notice, by registered mail to the Commissioner of the Virginia Department of Agriculture and Consumer Services, provided such withdrawal shall not release said Surety from any liability existing hereunder at the time of the effective date of said withdrawal.

SIGNED, SEALED and dated this _____ day of _____, 20_____.

_____(SEAL)

Principal

_____(SEAL)

Surety

By _____

By _____

Attach copy of Power-of-Attorney for the person executing this bond for the surety.

I. INFORMATION FOR THE PREPARATION AND EXECUTION OF THIS BOND

A. The name of Principal on the bond should be correctly stated, and should precisely agree with the name of applicant on the application for license as Cotton Handler (Any material variation may delay issuance of license.)

B. The name in which business is conducted should follow the name or names of the Principal where the applicant does business in a fictitious name.

Examples:

Individual operating in own name: **“Henry Smith”**

Individual owner operating in another name: **“Henry Smith d/b/a City Produce”**

Partners operating in another name: **“John Doe, Richard Roe, and Mary Roe d/b/a Acme Produce”**

Corporation operating in own name: **“Chase & Company (a corporation)”**

Corporation operating in another name: **“John Doe Enterprises, Inc. d/b/a Superior Produce”**

II. EXECUTION BY PRINCIPAL

A. If the Principal of this bond is:

1. An individual--this bond must be signed by the Principal.
2. A partnership--this bond should be executed in the name of the partnership and signed by the partners, and must be signed by at least one of the partners.
3. A corporation--this bond must be executed in the name of the Corporation, by its President or Vice President, with impression of corporate Seal affixed, and attested by Secretary or Assistant Secretary of the corporation.

III. EXECUTION BY SURETY: Should be by a properly authorized person, whose title should be shown with impression of the corporate seal of the surety affixed, and a copy of the Power-of-Attorney of that person attached to the bond.

IV. CONTINUATION CERTIFICATES ARE ACCEPTABLE

V. ATTACH POWER-OF- ATTORNEY

MAIL EXECUTED BOND TO:

Virginia Department of Agriculture and Consumer Services
Office of Product & Industry Standards
PO Box 1163
Richmond, VA 23218

Code of Virginia

Title 3.1

Agriculture, Horticulture and Food

Chapter 26

Sale of Farm Produce

Article 5

Cotton Handlers

§ 3.1-722.29. Definitions.

As used in this article, the following terms shall have the following meanings:

"Board" means the Board of Agriculture and Consumer Services.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"Cotton gin" means a facility where cotton seed and cotton lint are produced from raw cotton.

"Cotton handler" means any person or facility, including any cotton-marketing cooperative and any cotton-marketing association, doing business as a cotton gin, cotton merchant, or cotton warehouse.

"Cotton merchant" means any person who buys cotton from a producer for the purpose of resale, or acts as a broker or agent for a producer in arranging the sale of cotton. "Cotton merchant" does not include a person that buys cotton for his own use.

"Cotton warehouse" means any enclosure in which producer-owned cotton is stored or held for longer than forty-eight hours.

(2000, c. 584.)

§ 3.1-722.30. License required.

No person may do business as a cotton handler without first obtaining a license from the Commissioner as herein provided.

(2000, c. 584.)

§ 3.1-722.31. Application; license fee and bond.

A. Every person intending to do business as a cotton handler, shall, on or before September 1, 2000, make application to the Commissioner for a license on a form provided by the Commissioner. Thereafter, such application shall be submitted by every cotton handler on or before July 1 of each year. The application shall specify:

1. An address at which the applicant will receive correspondence by first-class mail;

2. Every address at which the records of the cotton handler will be kept;
3. Every address, including street address, building number, and city or town:
 - a. In the case of a cotton gin, where the cotton will be ginned; or
 - b. In the case of a cotton warehouse, where the cotton will be warehoused;
4. The full name and first-class mail address, including the street, city or town, and state, of a person who is authorized to receive service of process on behalf of the cotton handler; and
5. The form of business organization that the cotton handler will assume. If the applicant will be doing business as a sole proprietorship, he shall disclose the full name of the sole proprietor and the name under which the sole proprietor will be doing business. If the applicant will be doing business as a partnership, he shall disclose the full name of each of the partners, the name of the partnership, and the name under which the partnership will be doing business. If the applicant will be doing business as a corporation, he shall disclose the full name of each of the officers of the corporation, the name of the corporation, and the name under which the corporation will be doing business. If the applicant will be doing business as a limited liability company or foreign limited liability company, he shall disclose the full name of the manager of the company, the name of the company, and the name under which the company will be doing business as a cotton handler. If the company has no manager, the applicant shall disclose the full names of the members of the company.

B. The applicant shall submit with the application a nonrefundable application fee of fifty dollars.

C. Every person making application for a license as a cotton handler who will be doing business as a cotton gin or cotton merchant shall furnish at the time of application for license a bond in the amount of \$50,000 in accordance with § 3.1-722.35. Nothing in this subsection shall require a person doing business as a cotton gin to be separately licensed or bonded as a cotton merchant.

D. Except as otherwise provided in subsection E, every person making application for a license as a cotton handler doing business as a cotton warehouse shall furnish, at the time of application for the license, proof of insurance with a company licensed to do business in the Commonwealth in an amount equal to the fair market value of the maximum amount of cotton that can be stored in the warehouse, and a bond in the amount of \$500,000 in accordance with § 3.1-722.35.

E. In lieu of satisfying the requirements of subsection D, a cotton handler doing business solely as a cotton warehouse may furnish proof of a valid license issued pursuant to the United States Warehouse Act (USWA). A cotton handler governed by this subsection shall notify the Commissioner of any change in the status of its USWA license within twenty-four hours after being notified by the United States Department of Agriculture.

(2000, c. 584.)

§ 3.1-722.32. Expiration of license.

Any license granted by the Commissioner pursuant to this article shall expire on June 30 following the date of issuance.

(2000, c. 584.)

§ 3.1-722.33. Additional information to be reported by cotton gin each license year.

Prior to beginning ginning for the current license year, the cotton gin will provide to the Commissioner the last bale tag number used in the previous year and first bale tag number to be used in the current year.

(2000, c. 584.)

§ 3.1-722.34. Board may adopt regulations.

The Board may adopt regulations for the implementation of this article.

(2000, c. 584.)

§ 3.1-722.35. Execution and terms of bond; action thereon.

Bonds required by § 3.1-722.31 shall be executed by the applicant as principal and by a surety company authorized and qualified to do business in the Commonwealth as surety. The applicant shall file on or before July 1 of each licensing year a copy of this bond with the Commissioner, and the Commissioner shall be designated as the trustee of this bond. The bond shall be conditioned upon compliance with the provisions of this article and upon prompt and accurate settlement with the consignor. Any consignor of cotton claiming that a cotton handler has failed to comply with the provisions of this article or any regulations adopted pursuant thereto, or has failed to settle promptly and accurately with the consignor, may bring action therefor upon the cotton handler's bond against either the principal, or the surety, or both, in any court of competent jurisdiction.

(2000, c. 584.)

§ 3.1-722.36. Duties and powers of Commissioner with respect to bonds.

The Commissioner may accept the proceeds from any bond on which he is trustee and deposit the proceeds in the state treasury with interest in favor of the bond claimants. The Commissioner may institute and prosecute suits for actions in the name of the Commonwealth on behalf of the claimants known and approved by him in any appropriate court for any purpose in connection with the collection or distribution of the bond or its proceeds. It shall be the duty of any person having a claim against a cotton handler to notify the Commissioner of his claim. The Commissioner shall have no duty to prosecute any claim unless he has actual notice thereof and believes the claim to be valid. If the Commissioner believes the claim to be invalid, in whole or in part, he shall so notify the claimant. Notwithstanding any other provision of law, the Commissioner shall have the right to appeal a decision of any court which is contrary to any distribution recommended or authorized by him.

(2000, c. 584.)

§ 3.1-722.37. Investigation by Commissioner; right of entry and inspection.

A. For the purpose of enforcing the provisions of this article or any regulation adopted pursuant thereto, the Commissioner, upon receiving a complaint or upon his own motion, may, either personally or through his agent, investigate any violation of the provisions of this article. Such investigation may include:

1. The inspection of the books and records of any cotton handler;

2. The inspection of any cotton, including the weighing and reweighing of a representative sample of cotton bales stored at the cotton handler's premises; and

3. The inspection of any place where cotton or any record related thereto is or has been kept, stored, transported, or otherwise handled. In making such an inspection, the Commissioner or his agent may enter any premises, including, but not limited to, any building, yard, warehouse, storage facility, or transportation facility, in which cotton or any record related thereto is or has been kept, stored, transported, or otherwise handled. In exercising such right of entry, the Commissioner shall enter the premises during its hours of operation.

B. Any cotton handler who is the subject of an investigation by the Commissioner shall, upon request, assist the Commissioner or his agent in making any inspection authorized by this section.

(2000, c. 584.)

§ 3.1-722.38. Records to be kept by cotton handler.

A. Every cotton gin shall keep an accurate daily record of the cotton received from each consignor and ginned. The record shall contain:

1. The name and address of the consignor of the cotton;
2. The date that the cotton gin received the cotton;
3. The condition, quality, and quantity of the cotton on arrival at the cotton gin;
4. The gross weight of the vehicle containing the cotton, the tare weight for the vehicle used to transport the cotton, and the net weight of the cotton delivered to the cotton gin for final processing into bales of finished cotton;
5. A lot number or other identifying mark given to each consignment of cotton by the cotton gin, which shall appear on all tags, tickets, or statements and on any other essential records needed to show what cotton was ginned by the cotton gin on behalf of the consignor;
6. The sequentially numbered tag or mark assigned to the cotton bale;
7. A report of the finished cotton including the weight, grade, quality and condition;
8. A report of credit given for seed obtained during ginning process. If the actual weight of the seed is not determined, the record shall indicate the factor used to calculate weight and the final calculation; and
9. An itemized statement of the charges to be paid to the cotton gin by the consignor in connection with ginning the cotton.

If, at any time, the cotton gin alters any record required by this subsection, the cotton gin shall create an addendum to the record indicating the nature of the alteration and the date the alteration was made and sign the addendum to the record with the full name of the natural person making the addendum.

B. Every cotton warehouse, having received any cotton for storage, shall promptly make and keep an accurate record, showing in detail the following information with reference to the handling and storage of the cotton:

1. A daily inventory record consisting of all cotton stored in the warehouse recorded by bale tag number;
2. The receiving record with transactions recorded by bale tag number; and
3. The transfer record with transactions recorded by bale tag number.

C. Every cotton merchant, having received any cotton for transfer, shall promptly make and keep an accurate record, showing in detail the following information with reference to the handling and sales of the cotton:

1. The sales record with transactions recorded by bale tag number; and
2. The payable record with transactions recorded by bale tag number.

D. Every cotton handler shall retain all records, including tags or tickers, covering each transaction with each consignor, for a period of three years after the date that the record is required to be made.

(2000, c. 584.)

§ 3.1-722.39. Record and accounts to be provided to consignor.

A. Every cotton gin shall:

1. Within 48 hours after ginning the cotton, make available to the consignor the record required under § 3.1-722.38; and
2. Unless the consignor agrees otherwise in writing, within ten days after ginning cotton, deliver to the consignor a copy of such record and an account of all cotton ginned for the consignor.

B. Unless the consignor agrees otherwise in writing, every cotton handler shall, within ten days after transferring or selling cotton on behalf of the consignor, deliver to the consignor a copy of the record required under § 3.1-722.38 and an account of the consignor's cotton transferred or sold.

(2000, c. 584.)

§ 3.1-722.40. Certificate establishing condition, quality, grade, etc., to be furnished.

Every cotton gin shall, at the time of ginning, obtain a sample of each bale of ginned cotton for the purpose of determining condition, quality, and grade. Unless such sample is graded by the United States Department of Agriculture, the burden of proof shall be upon the cotton gin to prove the accuracy of its accounting as to any transaction which may be questioned by the consignor, the Commissioner or his agent, relating to condition, quality or grade of ginned cotton.

(2000, c. 584.)

§ 3.1-722.41. Identification of finished bales of cotton.

Every cotton gin shall determine the weight of each bale of finished cotton immediately following the making of the bale, shall number sequentially all finished cotton bales, and shall affix to each bale a sequentially numbered tag for the purpose of identifying the individual bale of finished cotton. The tag shall also identify the origin module. The burden of proof shall be upon the cotton gin to prove the accuracy of its accounting.

(2000, c. 584.)

§ 3.1-722.42. Denial, suspension, or revocation of a license.

The Commissioner may deny, suspend, or revoke the license of any cotton handler if the cotton handler violates any provision of § 3.1-722.40 or § 3.1-722.43. The Commissioner shall afford reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any cotton handler prior to and in connection with the denial, suspension, or revocation of the cotton handler's license.

(2000, c. 584.)

§ 3.1-722.43. Offenses and punishment.

Any cotton handler shall be guilty of a Class 1 misdemeanor if he:

1. Markets, obligates for sale, or otherwise disposes of producer-owned cotton without the written consent of the producer;
2. Does business as a cotton handler without the license required by this article;
3. Imposes false charges for the handling of cotton;
4. Fails to account promptly, accurately, fully, and properly and to make settlement therefor;
5. Intentionally makes any false statement with regard to grade, condition, markings, quality, or quantity of cotton received, ginned, packed, shipped, or otherwise handled, to the consignor of cotton with respect to the consignor's cotton, or to the Commissioner or his agent;
6. Fails to make or keep records as required by this article;
7. In any instance in which the cotton handler offers to buy the consignor's cotton, fails to disclose to the consignor that the person, firm, or corporation making the offer is composed substantially of the same persons, as stockholders, members, or otherwise, who compose the cotton handler business;
8. Refuses the Commissioner or his agent the right of entry afforded by this article;
9. Knowingly provides false information on an application for license pursuant to this article;
10. Fails to give reasonable written notice of any change in the style, name, or personnel of the cotton handler to the Commissioner or his agent or to the surety on the bond required by this article; or
11. Violates any provision of this article or regulation adopted pursuant thereto.

(2000, c. 584.)